REMARKS

This is a full and timely response to the outstanding Non-Final Office Action mailed April 15, 2009. Upon entry of the amendments in this response, claims 1-8, 10-18, 20, 22-29, and 31 remain pending. In particular, Applicant amends claims 1-8, 10-11, and 22. No new matter is added by these amendments. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Summary of Telephone Interview

Applicant would like to thank Examiner Parker for taking the time to discuss the outstanding Office Action by telephone on July 13, 2009 with Applicant's Representative Sherry Womack, Reg. No. 62,356. In that telephone discussion, Applicant's Representative and the Examiner discussed possibly narrowing the independent claims by amending those claims to include subject matter disclosed in at least paragraphs [0070], [0073], [0079], and/or [0080] of the present Application. Although more than one proposal appeared to include subject matter that could overcome references cited in the rejections, Applicants indicated an intent to pursue amending the independent claims to subject matter supported at least by paragraph [0073]. The Examiner indicated that such amendments would likely overcome the cited references, but she stated that she would have to continue searching further before determining whether the amended claims would be allowable. Applicant appreciates the Examiner taking the time to discuss these points with Applicant's Representative.

II. Rejections Under 35 U.S.C. §101

The Office Action indicates that claims 11-18 and 20 stand rejected under 35 U.S.C. §101 as claiming allegedly that the invention is directed to non-statutory subject

matter. Applicant has amended claim 11 to include the language "using a computing element," and this language is at least supported by FIG. 3 (item 205) of the present Application. For at least the foregoing reason, Applicant respectfully submits that claim 11 is sufficiently tied to an apparatus and is therefore directed to a patent eligible processor under 35 U.S.C. §101. Additionally, dependent claims 12-18 and 20 are believed to be allowable for at least the reason that they depend from allowable independent claim 1. *See In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Accordingly, Applicant requests that the rejection of claims 11-18 and 20 under 35 U.S.C. §101 be withdrawn.

III. Rejections Under 35 U.S.C. §112

The Office Action indicates that claims 1-9 stand rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. More specifically, the Office Action alleges the statutory class that Applicant is attempting to convey is unclear. Applicant amends claim 1 as indicated above, and submits that claim 1 as amended, is allowable in view of 35 U.S.C. §112. Specifically, the language "logic stored on a computer readable medium that when executed causes a computer to perform a vacation processing request system" of the preamble of claim 1 has been replaced with the following language "a computer readable medium storing logic that when executed causes a computer to perform processing of a vacation request." Similarly, claims 2-8 and 10 have been amended to replace "system" with "computer readable medium." Since claim 9 was canceled in a previous response, the rejection of this claim with respect to 35 U.S.C. §112 is moot. For at least the foregoing reasons,

Applicants respectfully submit that claims 1-8 and 10 are sufficiently definite and comply with 35 U.S.C. §112, second paragraph.

IV. Rejections Under 35 U.S.C. §103

A. Claim 1 is Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,192,346 issued to *Green* in view of U.S. Patent No. 6,970,829 issued to *Leamon.* Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of amended claim 1. More specifically, amended claim 1 recites:

> 1. A computer readable medium storing logic that when executed causes a computer to perform processing of a vacation request, the logic comprising:
> logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center***, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted;***
> logic configured to provide a vacation eligibility criteria based on at least a first rule;
> logic configured to process the vacation request based on the workload estimate and the vacation eligibility criteria comprising:
> logic configured to receive the vacation request of the first employee;
> logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and
> logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied.

(*Emphasis added*). Applicants respectfully submit that *Green* in view of *Leamon* fails to show or suggest at least the features emphasized above in amended claim 1. In fact, *Green* does not describe using feedback regarding whether supervisors accepted or implemented a recommendation from the system to determine a workload estimate. Rather, *Green* describes a bidding system that makes determinations based on

employee priority. (*See* Title, "Vacations and Holiday Scheduling Method and System Having a Bidding Object Which Enables Employees to Bid and Prevent From Bidding if Higher Priority Employees Have Not Bid.") Additionally, *Leamon* fails to cure this shortcoming of *Green*. While *Leamon* does include generating forecasts based on historical and simulated data regarding resource requirements, the historical and simulated data does not include feedback regarding acceptance rates or accuracy rates of forecasts from the system and method disclosed therein. For at least the foregoing reasons, *Green* in view of *Leamon* fails to show or suggest "wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted." Accordingly, Applicant respectfully submits that amended claim 1 is patentable over the cited references and requests that the rejection of amended claim 1 as obvious be withdrawn.

B. Claims 2-8 and 10 are Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claims 2-8 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Green* in view of *Leamon*. Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of claim 1. Dependent claims 2-8 and 10 are believed to be allowable for at least the reason that they depend from allowable independent claim 1. *See In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Accordingly, Applicant respectfully submits that claims 2-8 are patentable over the cited references and requests that the rejection of claims 2-8 as obvious be withdrawn.

C. Claim 11 is Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claim 11 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Green* in view of *Leamon.* Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of amended claim 11. More specifically, amended claim 11 recites:

> 11. A method of processing a vacation request, the method comprising:
> providing, using a computing element, a workload estimate comprising at least a first workload statistic that is used to operate a first call center***, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted;***
> providing, using a computing element, a vacation eligibility criteria based on at least a first rule;
> processing, using a computing element, the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria, wherein processing the vacation request comprises:
> receiving, using a computing element, the vacation request of the first employee;
> denying, using a computing element, the vacation request due to a lack of vacation availability at a time of the vacation request; and
> granting, using a computing element, the vacation request due to a vacation availability at a time after the vacation request was denied.

(*Emphasis added*). Applicants respectfully submit that *Green* in view of *Leamon* fails to show or suggest at least the features emphasized above in amended claim 11. In fact, *Green* does not describe using feedback regarding whether supervisors accepted or implemented a recommendation from the system to determine a workload estimate. Rather, *Green* describes a bidding system that makes determinations based on employee priority. (*See* Title, "Vacations and Holiday Scheduling Method and System Having a Bidding Object Which Enables Employees to Bid and Prevent From Bidding if Higher Priority Employees Have Not Bid.") Additionally, *Leamon* fails to cure this shortcoming of *Green*. While *Leamon* does include generating forecasts based on historical and simulated data regarding resource requirements, the historical and

simulated data does not include feedback regarding acceptance rates or accuracy rates of forecasts from the system and method disclosed therein. For at least the foregoing reasons, *Green* in view of *Leamon* fails to show or suggest "wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted." Accordingly, Applicant respectfully submits that amended claim 11 is patentable over the cited references and requests that the rejection of amended claim 11 as obvious be withdrawn.

D. Claims 12-18 and 20 are Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claims 12-18 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Green* in view of *Leamon*. Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of claim 11. Dependent claims 12-18 and 20 are believed to be allowable for at least the reason that they depend from allowable independent claim 11. *See In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Accordingly, Applicant respectfully submits that claims 12-18 and 20 are patentable over the cited references and requests that the rejection of claims 12-18 and 20 as obvious be withdrawn.

E. Claim 22 is Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claim 22 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Green* in view of *Leamon.* Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of claim 22. More specifically, claim 22 recites:

> 22. A vacation request processing system, the system comprising:
> a memory comprising:

computer-readable code that provides a workload estimate comprising at least a first workload statistic that is used to operate a first call center***, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted;***

computer-readable code that provides a vacation eligibility criteria based on at least a first rule;

computer-readable code that processes the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria; and

a processor for executing the computer-readable code stored in the memory, wherein memory further comprises:

computer-readable code that receives the vacation request of the first employee;

computer-readable code that denies the vacation request due to a lack of vacation availability at a time of the vacation request; and

computer-readable code that grants the vacation request due to a vacation availability at a time after the vacation request was denied.

(*Emphasis added*). Applicants respectfully submit that *Green* in view of *Leamon* fails to show or suggest at least the features emphasized above in amended claim 22. In fact, *Green* does not describe using feedback regarding whether supervisors accepted or implemented a recommendation from the system to determine a workload estimate. Rather, *Green* describes a bidding system that makes determinations based on employee priority. (*See* Title, "Vacations and Holiday Scheduling Method and System Having a Bidding Object Which Enables Employees to Bid and Prevent From Bidding if Higher Priority Employees Have Not Bid.") Additionally, *Leamon* fails to cure this shortcoming of *Green*. While *Leamon* does include generating forecasts based on historical and simulated data regarding resource requirements, the historical and simulated data does not include feedback regarding acceptance rates or accuracy rates of forecasts from the system and method disclosed therein. For at least the foregoing reasons, *Green* in view of *Leamon* fails to show or suggest "wherein the workload estimate is based at least in part upon data related to whether past workload estimates

were accepted." Accordingly, Applicant respectfully submits that claim 22 is patentable over the cited references and requests that the rejection of claim 22 as obvious be withdrawn.

F. Claims 23-29 and 31 are Allowable Over *Green* in view of *Leamon*

The Office Action indicates that claims 23-29 and 31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Green* in view of *Leamon*. Applicant respectfully traverses this rejection for at least the reason that *Green* in view of *Leamon* fails to disclose, teach, or suggest all of the elements of claim 22. Dependent claims 23-29 and 31 are believed to be allowable for at least the reason that they depend from allowable independent claim 22. *See In re Fine*, *Minnesota Mining and Mfg.Co. v. Chemque, Inc.*, 303 F.3d 1294, 1299 (Fed. Cir. 2002). Accordingly, Applicant respectfully submits that claims 23-29 and 31 are patentable over the cited references and requests that the rejection of claims 23-29 and 31 as obvious be withdrawn.

V. Miscellaneous Issues

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for the particular and specific reasons that the claimed combinations are too complex to support such conclusions and because the Office Action does not include specific findings predicated on sound technical and scientific reasoning to support such conclusions.

In the Response to Applicant's Remarks on p. 10, paragraph 4, the Office Action has included a conclusion that "it is old and well known in the art to transmit vacation or leave approvals to an employee through email." Applicant traverses this finding that this subject matter is well known. Particularly in the context of the claimed combination in the embodiment in claim 10 that includes logic configured to provide a workload estimate comprising at least a first workload statistic that is used to operate a first call center, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted; logic configured to provide a vacation eligibility criteria based on at least a first rule; logic configured to process the vacation request based on the workload estimate and the vacation eligibility criteria comprising: logic configured to receive the vacation request of the first employee; logic configured to deny the vacation request due to a lack of vacation availability at a time of the vacation request; and logic configured to grant the vacation request due to a vacation availability at a time after the vacation request was denied, wherein granting the vacation request comprises transmitting an e-mail to the first employee, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Because of this traversal, the Examiner must support his finding with evidence, or withdraw the well-known allegation. See MPEP § 2144.03. Therefore, the conclusion that this feature of claim 10 is well-known is improper and should be withdrawn.

Applicant traverses the finding that this subject matter is well known with respect to claim 20. Particularly in the context of the claimed combination in the embodiment in claim 20 that includes providing, using a computing element, a workload estimate

comprising at least a first workload statistic that is used to operate a first call center, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted; providing, using a computing element, a vacation eligibility criteria based on at least a first rule; processing, using a computing element, the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria, wherein processing the vacation request comprises: receiving, using a computing element, the vacation request of the first employee; denying, using a computing element, the vacation request due to a lack of vacation availability at a time of the vacation request; and granting, using a computing element, the vacation request due to a vacation availability at a time after the vacation request was denied, wherein granting the vacation request comprises transmitting an e-mail to the first employee, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Because of this traversal, the Examiner must support his finding with evidence, or withdraw the well-known allegation. See MPEP § 2144.03. Therefore, the conclusion that this feature of claim 20 is well-known is improper and should be withdrawn.

Applicant traverses the finding that this subject matter is well known with respect to claim 31. Particularly in the context of the claimed combination in the embodiment in claim 31 that includes a memory comprising: computer-readable code that provides a workload estimate comprising at least a first workload statistic that is used to operate a first call center, wherein the workload estimate is based at least in part upon data related to whether past workload estimates were accepted; computer-readable code

that provides a vacation eligibility criteria based on at least a first rule; computer-readable code that processes the vacation request of a first employee based on the workload estimate and the vacation eligibility criteria; and a processor for executing the computer-readable code stored in the memory, wherein memory further comprises: computer-readable code that receives the vacation request of the first employee; computer-readable code that denies the vacation request due to a lack of vacation availability at a time of the vacation request; and computer-readable code that grants the vacation request due to a vacation availability at a time after the vacation request was denied, wherein granting the vacation request computer-readable code transmits an e-mail to the first employee, the subject matter alleged to be well-known is too complex for a reasonably skilled person to consider it to be well-known to the point that no additional evidence is needed. Because of this traversal, the Examiner must support his finding with evidence, or withdraw the well-known allegation. See MPEP § 2144.03. Therefore, the conclusion that this feature of claim 31 is well-known is improper and should be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested.

If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

/ Sherry Womack /
Sherry A. Womack, Reg. No. 62,356

AT&T LEGAL DEPT.
Attention: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster, NJ 07921